

Attorney's Docket: 2003DE419
Serial No.: 10/828,669
Art Unit 1714
Response to Office Action of July 2, 2007

REMARKS/ARGUMENTS

The Office Action mailed July 27, 2004 has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. Accordingly, reconsideration of the present Application in view of the following remarks is respectfully requested.

Applicant has amended the Application to attend to housekeeping matters and to more clearly describe the invention. Claim 9 was amended to correct the spelling of the word "demulsifying" and to replace the first occurrence of the term "the" to the term —to—in line 2. Claims 1-8 and 10 were canceled. New claims 11 — 18 were added to protect the invention and are supported by originally filed claims 1-8 and 10. It is believed that no new matter has been introduced by these amendments and that no additional search is required by the office.

The rejection of claim 9 as amended, under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention should be withdrawn in view of the above remarks and amendments.

Claim 9 was rejected under 35 U.S.C. §103(a) as being unpatentable over Davies (US 5,743,923) (Herein referred to as the '923 Patent). The rejection of claim 9 as amended under 35 U.S.C. §103(a) as being unpatentable over Davies (US 5,743,923) should be withdrawn for the reason that the '923 Patent, disclose a method for improving the cold flow properties of fuel oil mixtures which is not analogous to demulsifying a water-in-oil mixture of a middle distillate, a biofuel oil and water, and no one skilled in the art would have any expectation that the claimed process would result in the removal of water from the mixture of middle distillate and biofuel oil. Cold flow properties of middle distillates and diesels refers to physical properties such as pour point, cold filter plugging point, etc. Demulsification is a process of destroying or "breaking" an unwanted emulsion, especially water-in-oil types occurring in crude petroleum. (*Hawley's Condensed Chemical Dictionary*, 14th Ed., John Wiley & Sons, 2001) There is nothing in the '923 Patent which relates to a method for demulsifying or breaking a mixture of a biodiesel and a mineral oil diesel

Attorney's Docket: 2003DE419
Serial No.: 10/828,569
Art Unit 1714
Response to Office Action of July 2, 2007

from water. Improvement in cold flow properties is not analogous to demulsification. No one skilled in the art would have the expectation of success in demulsifying a water-in-oil mixture of a middle distillate and a biofuel oil and water from the disclosure of the '923 Patent. Therefore, the rejection of claim 9 as amended as being unpatentable over Davies (US 5,743,923) should be withdrawn for the reason that the '923 Patent, disclose a method for improving the cold flow properties of fuel oil mixtures which is not analogous to demulsifying a water-in-oil mixture of a middle distillate, a biofuel oil and water, and no one skilled in the art would have any expectation that the claimed process would result in the removal of water from the mixture of middle distillate and biofuel oil.

The rejection of claims 8 and 10 under 35 U.S.C. 103(a) as being unpatentable over Davies (US 5,743,923) in view of Krull (US 5,998,530) The rejection of claims 8 and 10 under 35 U.S.C. 103(a) as being unpatentable over Davies (US 5,743,923) in view of Krull (US 5,998,530) is now moot in view of Applicant's amendments.

New claims 11 – 18 should be allowable in view of the arguments presented in support of claim 9 from which they depend.

It is respectfully submitted that, in view of the above remarks, the objections to the application and rejections under 35 U.S.C. §112, and §103 should be withdrawn and that this application is in a condition for an allowance of all pending claims. Accordingly, favorable reconsideration and an allowance of all pending claims are courteously solicited.

An early and favorable action is courteously solicited.

Respectfully submitted,



Richard P. Silverman
Registration No. 36,277
Agent for Applicants

(CUSTOMER NUMBER 25,255)
CLARIANT CORPORATION, INDUSTRIAL PROPERTY DEPARTMENT
4000 Monroe Road, Charlotte, NC 28205
Telephone: (704) 331-7156, Facsimile: (704) 331-7707